

California Code Related to Access to Sterile Needles and Syringes

Syringe Exchange Programs

[California Health and Safety \(H&S\) Code Section 11364.7\(a\)](#) establishes that no public entity, its agents, or employees shall be subject to criminal prosecution for distribution of syringes to participants in syringe exchange programs (SEPs) authorized by the public entity.

[California Business and Professions \(B&P\) Code Section 4145.5\(e\)](#) requires SEPs to counsel consumers on safe disposal and provide them with one or more of the following disposal options: 1) onsite disposal, 2) provision or sale of sharps containers that meet applicable state and federal standards, and/or 3) provision or sale of mail-back sharps containers.

Local Authorization of SEPs

[H&S Code Section 121349.1](#) allows local governments to authorize SEPs in consultation with the California Department of Public Health (CDPH), as recommended by the U.S. Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and blood-borne hepatitis infection among injection drug users.

[H&S Code Section 121349.2](#) requires that local government and health officials, law enforcement and the public be given an opportunity to comment on SEPs in order to address and mitigate any potential negative impact of SEPs. Assembly Bill (AB) 604 (Skinner, Chapter 744, Statutes of 2011) changed the public comment requirements from annual to biennial, effective January 1, 2012.

[H&S Code Section 121349.3](#) requires the local health officer to present information about SEPs at an open meeting of the local authorizing body. The information is to include, but is not limited to, relevant statistics on blood-borne infections associated with syringe sharing and the use of public funds to support SEPs. AB 604 changed the reporting requirements from annual to biennial, effective January 1, 2012.

State Authorization of SEPs

[H&S Code Section 121349.1](#) allows CDPH to authorize SEPs in locations where the conditions exist for the rapid spread of viral hepatitis, HIV or other potentially deadly diseases. The provisions of AB 604 sunset on January 1, 2019. [More information.](#)

Individual Possession of Needles and Syringes

H&S Code Sections [11364.1](#) and [11364.7](#) govern the possession of drug paraphernalia. Adults age 18 and older may possess syringes for personal use if acquired from a physician, pharmacist, authorized SEP or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription. Individuals may not possess a syringe on school grounds with the intent to provide the syringe to an individual under the age of 18, if that person may use the syringe to inject a controlled substance.

[AB 1743](#) (Ting, Chapter 331, Statutes of 2014), which goes into effect on January 1, 2015,

removes prior limits on the number of syringes adults may possess. Beginning January 1, 2015, adults may possess an unlimited number of hypodermic needles and syringes for personal use.

Nonprescription Sale of Syringes (NPSS) in Pharmacies

[California B&P Code Section 4145](#) permits the nonprescription sale of hypodermic needles and syringes by California pharmacies. [AB 1743 \(Ting\)](#), which goes into effect on January 1, 2015, removed the prior limit of 30 hypodermic needles and syringes that California pharmacies and physicians had been permitted to furnish or sell. Beginning January 1, 2015, pharmacists and physicians may furnish or sell an unlimited number of hypodermic needles and syringes to adults age 18 and older.

A pharmacy that furnishes nonprescription syringes must store them so that they are only available to authorized personnel and are not accessible to other persons. Such pharmacies must also counsel consumers on safe disposal and provide written information or verbal counseling at the time of syringe sale on how to do the following: 1) access drug treatment, 2) access testing and treatment for HIV and hepatitis C, and 3) safely dispose of sharps waste. A *Patient Information Sheet* that includes this written information can be downloaded at www.cdph.ca.gov/syringeaccess. Pharmacies must also make sharps disposal available to customers by selling or furnishing sharps disposal containers or mail-back sharps containers, or by providing on-site disposal.

AB 1743 also deleted the January 1, 2015, sunset date of previous nonprescription syringe sale legislation and extended until January 1, 2021, current law that permits the sale of hypodermic needles and syringes without a prescription in California pharmacies. [More information.](#)

Syringe Disposal

[B&P Code Section 4146](#) permits pharmacies to accept the return of needles and syringes from the public if contained in a sharps container, which is defined in [H&S Code Section 117750](#) as “a rigid puncture-resistant container that, when sealed, is leak resistant and cannot be reopened without great difficulty.”

[H&S Code Section 118286](#) prohibits individuals from discarding home-generated sharps waste in home or business recycling or waste containers.

[H&S Code Section 118286](#) also requires that home-generated sharps waste be transported only in a sharps container or other container approved by the applicable enforcement agency, which may be either the state ([CalRecycle](#) program) or a local government agency. Home-generated sharps waste may be managed at household hazardous waste facilities, at “home-generated sharps consolidation points,” at the facilities of medical waste generators, or by the use of medical waste mail-back containers approved by the state.

[B&P Code 4145.5](#) requires SEPs and pharmacies that sell or provide nonprescription syringes to counsel consumers on safe disposal and also provide them with one or more of the following disposal options: 1) onsite disposal, 2) provision of sharps containers that meet applicable state and federal standards, and/or 3) provision of mail-back sharps containers.

Related Legislation

AB 1743, which goes into effect on January 1, 2015, removes the limit on the number of syringes pharmacies and physicians may provide or sell to an adult without a prescription, and removes the limit on the number of syringes adults may possess without a prescription when acquired from an authorized source. AB 1743 adds the requirement that pharmacists counsel purchasers on safe disposal. AB 1743 deletes the January 1, 2015, sunset date of previous nonprescription syringe sale legislation and extends until January 1, 2021, current law that permits the sale of hypodermic needles and syringes without a prescription in California pharmacies.

AB 604 (Skinner, Chapter 744, Statutes of 2011) permits, until January 1, 2019, CDPH, Office of AIDS (OA) to authorize entities that apply to CDPH and meet certain conditions to provide hypodermic needle and syringe exchange services. This bill requires CDPH SEP authorization be made after consultation with local health officers (LHOs) and local law enforcement officials, and after a 90-day public comment period. In making the authorization determination, CDPH is required to balance the concerns of law enforcement with the public health benefits. CDPH SEP authorizations extend for two years. Before the end of the two year period, CDPH may reauthorize the SEP in consultation with the LHO and local law enforcement officials. AB 604 also changes requirements for LHOs who must report to city or county government on locally-authorized SEPs by requiring the report to be made on a biennial, rather than an annual, basis. Additionally, AB 604 specifies that SEP staff and volunteers not be subject to criminal prosecution for possession of needles and syringes acquired from an authorized SEP.

SB 41 (Yee, Chapter 738, Statutes of 2011) permitted nonprescription syringe sales through licensed pharmacies throughout the state until January 1, 2015. It made inoperative until January 1, 2015, provisions of California code related to the Disease Prevention Demonstration Project (DPDP), a pilot program which allowed NPSS in counties and cities which authorize it, and for which authorizing statute sunsets on December 31, 2018. This bill allowed customers 18 years of age and older to purchase and possess up to 30 syringes for personal use when acquired from an authorized source. It specified that pharmacists, physicians and SEPs are authorized sources of nonprescription syringes for disease prevention purposes. SB 41 required pharmacies and SEPs which offer NPSS to provide options for safe syringe disposal. The bill also required pharmacies that offer NPSS to provide education to customers on how to safely dispose of sharps waste and how to access drug treatment, and testing and treatment for HIV and hepatitis C virus. CDPH, OA and the California Board of Pharmacy were required by the bill to post this same information on how consumers can access testing and treatment for HIV and viral hepatitis; safely dispose of sharps waste; and access drug treatment on their websites.

SB 821 (Senate Committee on Business, Professions and Economic Development - Omnibus, Chapter 307, Statutes of 2009) authorizes licensed pharmacies to accept home-generated sharps waste for disposal.

AB 110 (Laird, Chapter 707, Statutes of 2007) authorizes a public entity that receives State General Fund money from the California Department of Public Health for HIV education and prevention to use that money to support SEPs authorized by the public entity, including purchasing sterile needles and syringes.

SB 1305 (Figueroa, Chapter 64, Statutes of 2006) prohibits individuals from discarding home-

generated sharps waste in home or business recycling or waste containers.

AB 547 (Berg, Chapter 692, Statutes of 2005) authorizes a city or county to establish an SEP without a declaration of a local emergency. AB 547 also: 1) exempts public entities, agents, or employees from criminal prosecution for distributing syringes at authorized SEPs; 2) requires the local health officer to present an annual report on the status of SEPs at an open meeting of the authorizing body (board of supervisors or city council); and 3) gives the public and local stakeholders an opportunity annually to provide feedback to supervisors or city council members on the impact of SEPs.

SB 1159 (Vasconcellos, Chapter 608, Statutes of 2004) created the DPDP, a collaboration between local and state health officials, and licensed pharmacies who have registered with their local health department to sell ten or fewer syringes for personal use without a prescription. SB 1159 also authorized a person to possess up to ten hypodermic needles or syringes if acquired through an authorized source, and exempted from prosecution any individual carrying syringes containerized for disposal. The legislation required OA to evaluate the pilot and [report](#) to the Governor and Legislature on specified measures.

SB 1362 (Figueroa, Chapter 157, Statutes of 2004) authorizes the hazardous waste element of the California Integrated Waste Management Act of 1989 to include a program for safe collection, treatment, and disposal of sharps waste generated by households.

AB 136 (Mazzoni, Chapter 762, Statutes of 1999) exempts from criminal prosecution public entities and their employees/agents distributing syringes to SEP participants, when such a program has been authorized by the local governing body.